

## REMARKS

Applicant have studied the *Office Action* mailed May 1, 2003, and has made amendments to the written description and the claims. By virtue of this response, claims 1-20 are pending. Claims 1-16 have been amended and claims 17-20 have been newly added. It is respectfully submitted that the application, as amended, is in condition for allowance. Applicant respectfully requests reconsideration and allowance of the claims in view of the above amendments and the following remarks.

The Written Description has been carefully amended to correct minor typographical errors. No new matter has been added.

Claims 1-16 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicant has made amendments to the claims taking the Examiner's comments into account. Applicant respectfully requests withdrawal of the rejections to claims 1-16 under 35 U.S.C. §112, second paragraph.

Claims 1, 5, 8, 11, and 14 were rejected under 35 U.S.C. §102(b) as being anticipated by Japanese Patent No. 354086629A to Yanagawa et al. ("the Yanagawa et al. '629 patent"). This rejection is respectfully traversed.

In the *Office Action* mailed May 1, 2003, the Office stated that "Yanagawa et al[.] also disclose that the degree of substitution is 0.425, which meets the limitation of at least a 0.01 substitution value recited in the instant claims (see **page 182, left column, lines 2-3**).” The *Office Action* mailed May 1, 2003, at page 3, second full paragraph (emphasis added). The Office is seeking to rely on the Yanagawa et al. '629 patent, a document in Japanese, a language other than English, since the degree of substitution value does not seem to be present in the

English language Abstract of the Yanagawa et al. '629 patent. However, the *Manual of Patent Examining Procedure* ("the *MPEP*") clearly requires:

To determine whether both the abstract and the underlying document are prior art, a copy of the underlying document must be obtained and analyzed. **If the document is in a language other than English and the examiner seeks to rely on that document, a translation *must* be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection.** The record must also be clear as to whether the examiner is relying upon the abstract or the full text document to support a rejection. The rationale for this is several-fold. It is not uncommon for a full text document to reveal that the document fully anticipates an invention that the abstract renders obvious at best. The converse may also be true, that the full text document will include teachings away from the invention that will preclude an obviousness rejection under 35 U.S.C. [§] 103[(a)], when the abstract alone appears to support the rejection. An abstract can have a different effective publication date than the full text document. Because all patentability determinations are fact dependent, obtaining and considering full text documents at the earliest practicable time in the examination process will yield the fullest available set of facts upon which to determine patentability, thereby improving quality and reducing pendency.

When both the abstract and the underlying document qualify as prior art, the underlying document should normally be used to support a rejection. In limited circumstances, it may be appropriate for the examiner to make a rejection in a non-final Office action based in whole or in part on the abstract only without relying on the full text document. In such circumstances, the full text document and a translation (if not in English) may be supplied in the next Office action.

*MPEP* §706.02 (underlined emphasis in original; bold and italic emphasis added).

Therefore, Applicant respectfully requests that the Office provide the English language translation of the Yanagawa et al. '629 patent, which §706.02 of the *MPEP* clearly states "***must be obtained so that the record is clear as to the precise facts the examiner is relying upon in support of the rejection.***" *MPEP* §706.02 (emphasis added).

In the alternative, Applicant would not object should the Office wish to withdraw the rejection under 35 U.S.C. §102(b) based on the Japanese language Yanagawa et al. '629 patent.

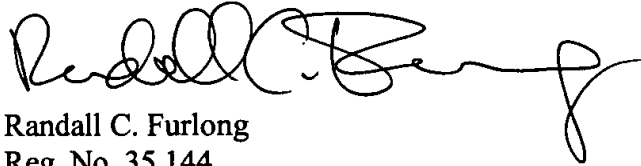
Claims 17-20 have been added by this *Amendment and Response*. No new matter has been added.

New claims 17-20 depend from claims 5, 8, 11, and 14, respectively, and further distinguish over the cited references. Therefore, it is respectfully submitted that dependent claims 17-20 are in condition for allowance.

In view of the foregoing, it is respectfully submitted that the application and all of the claims are in condition for allowance. Reexamination and reconsideration of the application, as preliminarily amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 758-4802 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,



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